

Message Text

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ORIGIN ARA-10

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DRAFTED BY: ARA/BC/C:AMISAACS

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APPROVED BY: S/S-O: WNEWLIN

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FM SECSTATE WASHDC

TO AMEMBASSY MEXICO IMMEDIATE

C O N F I D E N T I A L STATE 033768

TOSEC 3, FOR ASST SEC KUBISCH

FOLLOWING REPEAT SANTIAGO 0807 SENT ACTION SECSTATE DATED
19 FEB 1974:

QTE

C O N F I D E N T I A L SANTIAGO 0807

PASS TREASURY AND OPIC

EO 11652: GDS

TAGS: EIND

SUBJ: CERRO

1. CERRO VICE PRESIDENT WALSH CALLED ON AMBASSADOR TODAY TO
REPORT ON NEGOTIATIONS WITH PHILLIPPI. HIS REPORT WAS VERY
FAVORABLE TO GOC NEGOTIATORS. HE INDICATED THAT GOC REPRESENTATIVES
HAD BEEN SPENDING VIRTUALLY FULL TIME ON CERRO
NEGOTIATION FOR THE PAST WEEK AND THAT MAIN OUTLINES OF
DEAL HAD ALREADY BEEN HAMMERED OUT. HE NOTED THAT AGREED
UPON ARRANGEMENT INVOLVED BOTH POSITIVE AND NEGATIVE ELEMENTS
FOR CERRO BY COMPARISONS WITH PREVIOUS FORMULATIONS NEGOTIATED
WITH ALLENDE GOVERNMENT -- THOUGH HE WAS PROMPT TO SAY THAT
POSITIVE CONSIDERATIONS FAR OUTWEIGH NEGATIVE ONES.

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2. ON NEGATIVE SIDE HE SAID THAT CERRO HAD AGREED TO TWO STREAMS OF NOTES COVERING PERIODS OF SEVENTEEN YEARS EACH AS COMPARED WITH FIFTEEN-YEAR TERM CONTAINED IN PREVIOUS AGREEMENT. HE ALSO SAID THAT PAYMENTS CALLED FOR BY THE NOTES WOULD BE LOWER IN THE EARLIER YEARS THAN WAS THE CASE PREVIOUSLY. ON POSITIVE SIDE, HOWEVER, HE EMPHASIZED AGREEMENT ON ACCELERATION OF BOTH SETS OF NOTES BASED ON RECEIPT BY CERRO OF PAYMENTS IN KIND OF SMELTER INTERMEDIATES AND CONCENTRATES. BASED ON QUANTITIES ALREADY OFFERED TO CERRO, WALSH BELIEVES THAT PAYMENT IN FULL CAN BE ACHIEVED IN TWO TO THREE YEARS. ADDITIONAL POSITIVE ELEMENT IS GOC RECOGNITION OF PRESENT VALUE FIGURE OF \$41.6 MILLION AS COMPARED TO SOME \$37 MILLION UNDER PREVIOUS ARRANGEMENT.

3. PHILIPPI AND GOC TEAM PRESENTLY WORKING ON TWO SIGNIFICANT "TECHNICAL" PROBLEMS ON WHICH AGREEMENT IN PRINCIPLE HAS BEEN REACHED. THE FIRST OF THESE IS ERADICATION OF A TAX CLAIM FOR APPROXIMATELY \$18 MILLION. THE SECOND IS THE ESTABLISHMENT OF A MECHANISM TO ASSURE THAT PAST AND FUTURE INTEREST PAYMENTS WILL BE FREE OF CHILEAN TAXES.

4. FINALLY, PARTIES HAVE DISCUSSED CHOICE OF LAW PROVISION TO BE INCLUDED IN NOTES. WHILE THIS MATTER HAS NOT YET BEEN RESOLVED, INDICATIONS ARE THAT NOTES WILL BE SIGNED IN NEW YORK AND MADE EXPRESSLY SUBJECT TO NEW YORK LAW.

5. BECAUSE OF TECHNICAL PROBLEMS REFERRED TO ABOVE, IT DOES NOT APPEAR THAT AGREEMENT WILL BE SIGNED BEFORE WALSH'S DEPARTURE WEDNESDAY NIGHT FEBRUARY 20, BUT PHILIPPI HAS AGREED TO THE JOINT INITIALLING OF A MEMORANDUM OF UNDERSTANDING PRIOR TO WALSH'S DEPARTURE WHICH WILL INCLUDE ALL ESSENTIAL ELEMENTS OF AGREEMENT. WALSH THEN PLANS TO RETURN ON MONDAY FEBRUARY 25 HOPING TO SIGN FINAL AGREEMENT WITHIN A WEEK OR SO THEREAFTER. COPY OF MEMORANDUM OF UNDERSTANDING WILL BE FURNISHED TO EMBASSY PRIOR TO WALSH'S DEPARTURE, FOR TRANSMISSION TO OPIC.

6. WALSH REQUESTED THAT EMBASSY NOTIFY BRADFIELD AND LARSON OF TREASURY THAT PROGRESS HAS BEEN ENTIRELY SATISFACTORY.
POPPER UNQTE RUSH
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